

Introduced by Senator Simitian

February 19, 2010

An act to amend Section 529 of the Penal Code, relating to impersonation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1411, as introduced, Simitian. Impersonation: Internet.

Existing law makes it a crime to falsely impersonate another in either his or her private or official capacity, as specified. Existing law also makes it a crime to knowingly access and, without permission, alter, damage, delete, destroy, or otherwise use any data, computer, computer system, or computer network in order to devise or execute any scheme or artifice to defraud, deceive, or extort, or wrongfully control or obtain money, property, or data. For a violation thereof, in addition to specified criminal penalties, existing law authorizes an aggrieved party to bring a civil action against the violator, as specified.

This bill would add to the impersonation provisions and make unlawful the knowing impersonation of any other person through or on an Internet Web site or by other electronic means, as defined, with a bad faith intent for purposes of injuring, defrauding, or deceiving another person or obtaining a benefit. The bill would, in addition to the specified criminal penalties, authorize an aggrieved party to bring a civil action against any person who violates that provision, as specified. Because the bill would add to an existing crime provision, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 529 of the Penal Code is amended to
2 read:

3 529. (a) Every person who falsely ~~personates~~ *impersonates*
4 another *person* in either his *or her* private or official capacity, and,
5 ~~in such that assumed character either,~~ *does any of the following is*
6 *guilty of a public offense punishable pursuant to subdivision (c):*
7 ~~1.—~~

8 (1) Becomes bail or surety for any party in any proceeding
9 whatever, before any court or officer authorized to take ~~such the~~
10 bail or surety;.

11 ~~2.—~~

12 (2) Verifies, publishes, acknowledges, or proves, in the name
13 of another person, any written instrument, with intent that the same
14 may be recorded, delivered, or used as true; ~~or,~~

15 ~~3.—~~

16 (3) Does any other act whereby, if done by the person falsely
17 ~~personated~~ *impersonated*, he *or she* might, in any event, become
18 liable to any suit or prosecution, or to pay any sum of money, or
19 to incur any charge, forfeiture, or penalty, or whereby any benefit
20 might accrue to the party ~~personating~~ *impersonating*, or to any
21 other person;.

22 (b) (1) *Any person who knowingly impersonates, in any manner,*
23 *or pretends to be any other person through or on an Internet Web*
24 *site or by other electronic means with a bad faith intent for*
25 *purposes of injuring, defrauding, or deceiving another person or*
26 *obtaining a benefit is guilty of a public offense punishable pursuant*
27 *to subdivision (c).*

28 (2) *For purposes of this paragraph, “electronic means” shall*
29 *include opening an e-mail account or an account or profile on a*
30 *social networking web site in another person’s name.*

31 ~~Is~~

32 (c) *A violation of subdivision (a) or (b) is punishable by a fine*
33 *not exceeding ten thousand dollars (\$10,000), or by imprisonment*

1 in the state prison, or in a county jail not exceeding one year, or
2 by both ~~such~~ *that* fine and imprisonment.

3 *(d) In addition to any other civil remedy available, an aggrieved*
4 *party who suffers damage or loss by reason of violation of*
5 *subdivision (b) may bring a civil action against the violator for*
6 *compensatory damages and injunctive relief or other equitable*
7 *relief pursuant to paragraphs (1), (2), (4), and (5) of subdivision*
8 *(e) and subdivision (g) of Section 502.*

9 SEC. 2. No reimbursement is required by this act pursuant to
10 Section 6 of Article XIII B of the California Constitution because
11 the only costs that may be incurred by a local agency or school
12 district will be incurred because this act creates a new crime or
13 infraction, eliminates a crime or infraction, or changes the penalty
14 for a crime or infraction, within the meaning of Section 17556 of
15 the Government Code, or changes the definition of a crime within
16 the meaning of Section 6 of Article XIII B of the California
17 Constitution.